



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,418	08/10/2000	Christopher E. Axe	4876	6284
22830	7590	09/14/2005	EXAMINER	
CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303			ART UNIT	PAPER NUMBER

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/636,418

Applicant(s)

AXE ET AL.

Examiner

Gregory J. Vaughn

Art Unit

2178

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 27 June 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
9/11/2005

Continuation of 10. Other (including any explanation in support of the above items):

The appeal filed on June 27, 2005 is defective because it does not contain the items required under 37 CFR 1.192(c)(7) and 37 CFR 1.192(c)(8)(i) and 37 CFR 1.192(c)(8)(v). See MPEP 1206.

37 CFR 1.192(c)(7) - Groupings of Claims Defect

Regarding the defect under 37 CFR 1.192(c)(7), appellant states "For each ground of rejection which Appellants contest herein which applies to more than one claim, such additional claims, to the extent separately identified and argued below, do not stand or fall together" (page 4, section 7 of the appeal filed 6/27/2005). Appellant has failed to provide an explanation as to why the claims of the groups are believed to be separately patentable. 37 CFR 1.192(c)(7) requires "unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8) of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable".

37 CFR 1.192(c)(8)(i) - Argument Defect

Regarding the defect under 37 CFR 1.192(c)(8)(i), appellant has failed to provide arguments addressing the rejection of claim 34 made under 35 USC 112 first paragraph in the office action dated January 27, 2005. 37 CFR 1.192(c)(8)(i) requires: "For each rejection under 35 U.S.C. 112, first paragraph, the argument shall specify the errors in the rejection and how the first paragraph of 35 U.S.C. 112 is complied with, including, as appropriate, how the specification and drawings, if any, (A) Describe the subject matter defined by each of the rejected claims, (B) Enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims, and (C) Set forth the best mode contemplated by the inventor of carrying out his or her invention."

37 CFR 1.192(c)(8)(v) - Argument Defect

Regarding the defect under 37 CFR 1.192(c)(8)(v), appellant has failed to provide arguments addressing the rejection of claim 34 made under 35 USC 101 in the office action dated January 27, 2005. 37 CFR 1.192(c)(8)(v) requires: "For any rejection other than those referred to in paragraphs (c)(8)(i) to (iv) of this section, the argument shall specify the errors in the rejection and the specific limitations in the rejected claims, if appropriate, or other reasons, which cause the rejection to be in error."

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
9/14/2005